

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1044

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 45-881.01, Arizona Revised Statutes, is amended to
3 read:

4 45-881.01. Cease and desist order; temporary cease and desist
5 order; hearing; injunctive relief

6 A. Except as provided by subsection B OR C of this section, if the
7 director has reason to believe that a person is violating or has violated a
8 provision of this chapter or a permit, rule or order issued or adopted
9 pursuant to this chapter, the director may give the person written notice
10 that the person may appear and show cause at an administrative hearing at
11 least thirty days from the date of service of the notice why the person
12 should not be ordered to cease and desist from the violation. The notice
13 shall inform the person of the date, time and place of the hearing and the
14 consequences of failure to appear.

15 B. If the director finds that a person is constructing a storage
16 facility or storing water in violation of this chapter, the director may
17 issue a temporary order for the person to cease and desist the construction
18 or storage pending final action by the director pursuant to subsection E of this
19 section. ~~The order shall include written notice to the person of the date, time and place where the person may appear at an administrative hearing before the department to show cause why the temporary order should be vacated. The hearing shall be held within fifteen days of the date of the order unless the person consents to a longer period.~~

20 C. IF THE DIRECTOR FINDS THAT A HYDROLOGY REPORT SUBMITTED FOR AN
21 UNDERGROUND WATER STORAGE FACILITY PERMIT OR A GROUNDWATER SAVINGS FACILITY
22 PERMIT IS FLAWED OR SCIENTIFICALLY INACCURATE, THE DIRECTOR MAY ISSUE A
23 TEMPORARY ORDER FOR THE PERSON TO CEASE AND DESIST CONSTRUCTION OR STORAGE
24 PENDING FINAL ACTION BY THE DIRECTOR PURSUANT TO SUBSECTION E OF THIS
25 SECTION.

1 D. AN ORDER ISSUED PURSUANT TO SUBSECTION B OR C OF THIS SECTION SHALL
2 INCLUDE WRITTEN NOTICE TO THE PERSON OF THE DATE, TIME AND PLACE WHERE THE
3 PERSON MAY APPEAR AT AN ADMINISTRATIVE HEARING BEFORE THE DEPARTMENT TO SHOW
4 CAUSE WHY THE TEMPORARY ORDER SHOULD BE VACATED. THE HEARING SHALL BE HELD
5 WITHIN FIFTEEN DAYS OF THE ORDER UNLESS THE PERSON CONSENTS TO A LONGER
6 PERIOD.

7 ~~C.~~ E. The decision and order of the director under subsections A, ~~and~~
8 B ~~AND~~ C of this section may be in a form that the director determines to be
9 reasonable and appropriate and may include a determination of violation, a
10 cease and desist order, the recommendation of a civil penalty and an order
11 directing that positive steps be taken to abate or ameliorate any harm or
12 damage arising from the violation. THE DECISION AND ORDER OF THE DIRECTOR
13 UNDER SUBSECTION C OF THIS SECTION MAY ALSO INCLUDE SUSPENSION OR REVOCATION
14 OF A PERMIT GRANTED PURSUANT TO SECTION 45-811.01 OR 45-812.01. The person
15 affected may seek judicial review of the final decision of the director as
16 provided in section 45-114, subsection B in the superior court in the county
17 in which the violation is alleged to have occurred.

18 ~~D.~~ F. If the person continues the violation after the director has
19 issued a final decision and order pursuant to subsection ~~C.~~ E of this section
20 or a temporary order pursuant to subsection B ~~OR~~ C of this section, the
21 director may apply for a temporary restraining order or preliminary or
22 permanent injunction from the superior court pursuant to the rules of civil
23 procedure. Filing for injunctive relief does not preclude other forms of
24 relief or enforcement against the violator.

25 ~~E.~~ G. Section 45-114, subsections A and B govern administrative
26 proceedings, rehearing or review and judicial review of final decisions of
27 the director under this section."

28 Amend title to conform

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2/25/08
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S: MG/jas